

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BILLY JOE BOOKER, ID # 2063734,)
Petitioner,)
)
vs.) No. 3:17-CV-3427-N (BH)
)
LORIE DAVIS, Director,) Referred to U.S. Magistrate Judge
Texas Department of Criminal)
Justice, Correctional Institutions)
Division,)
Respondent.)

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS AND TO USE ORIGINAL RECORD ON APPEAL**

By *Amended Miscellaneous Order No. 6* (adopted by *Special Order No. 2-59* on May 5, 2005), before the Court is the petitioner's *Motion for Leave to Proceed In Forma Pauperis* and *Motion for Leave to Use Original Record*, received December 14, 2018. (Doc. 29). In the motion, petitioner requests to proceed *in forma pauperis* on appeal of the denial of his motion for default judgment. Petitioner additionally requests to use the records originally filed in this Court, "to be used on appeal without providing any part pursuant to Fed. R. App. Proc. 24(c)." (*See id.*).

- (X) The request for leave to proceed *in forma pauperis* on appeal should be DENIED because the Court should certify pursuant to Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith and that the appeal presents no legal points of arguable merit and is therefore frivolous.
- (X) The request to use on appeal, the records originally filed in this Court, should be DENIED because that is a matter for the U. S. Court of Appeals for the Fifth Circuit.

If the Court denies the request to proceed *in forma pauperis* on appeal, the petitioner may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). *See* Fed. R. App. P. 24(a)(5).

SIGNED this 17th day of December, 2018.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE